

REMARKS

Applicant recognizes with appreciation that the Examiner conducted a personal interview with the Applicant's representative on Oct. 3, 3006. During the interview, the Applicant's representative pointed out the difference between the present invention and the Joulin reference (GB 1,568,220) and Kawaguchi (US 4,640,081). Especially, the Applicant's representative pointed out that there is no motivation or suggestion for the combination of these two references. Applicant's representative pointed out, if the means before the entrance of the machine is identified as the wrapping structure in Joulin, the modification of such wrapping structure to the box-like vacuum cover in Kawaguchi (US 4,640,081) will render the equipment in Joulin inoperable. In addition, the vacuuming box is located after the packaging machine encloses the bags at one end, not before the entrance of the machine. The Examiner indicated that the rejections would be reconsidered if this argument were submitted in the official response.

In this Amendment, Applicant has cancelled Claim 2 without prejudice or disclaimer and amended Claims 1, 16 and 17 to overcome the rejection and specify different embodiments of the present invention. In addition, Claims 3, 6 and 7 have been amended to proper dependent form. Please note that the limitations of Claim 2 have been added to Claims 1 and 17. It is respectfully submitted that no new matter has been introduced by the amended claims. The amendment does not introduce new limitations that require further search and should be entered. All claims are now present for examination and favorable reconsideration is respectfully requested in view of the preceding amendments and the following comments.

REJECTIONS UNDER 35 U.S.C. § 112 SECOND PARAPGRAPH:

Claims 1 – 8, 16 and 17 have been rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is respectfully submitted that the rejection has been overcome by the present amendment. More specifically, Claims 1 and 17 have been amended to replace “the entrance” with “an entrance”. Claims 2 – 8 and 16 also include the corrected term due to their dependency on Claim 1.

Therefore, the rejection under 35 U.S.C. § 112, second paragraph, has been overcome. Accordingly, withdrawal of the rejections under 35 U.S.C. § 112, second paragraph, is respectfully requested.

REJECTIONS UNDER 35 U.S.C. § 102:

Claim 1 and 17 have been rejected under 35 U.S.C. § 102 (b) as allegedly being anticipated by Gerard Joulin et al. (GB 1,568,220), hereinafter Joulin.

Applicant traverses the rejection and respectfully submits that the present-claimed invention is not anticipated by the cited reference. More specifically, Claims 1 and 17 have been amended to add the limitations in original Claim 2, which are not disclosed or suggested. In addition, in the plant according to the present invention as claimed in Claims 1 and 17, two processing stations can be clearly identified: a first station (device 21 with bells 22), where the product is submitted vacuum before packaging (step 1) and, advantageously, can also be submitted to a first exposure to modified atmosphere (step 2), and a second station (continuous packaging machine 12), where the product is packed with the tubular film containing modified atmosphere (step 3).

Joulin discloses a packaging machine for partially cooked products, wherein air is sucked from inside the package represented by the tubular sheath of plastic film 4 (when it has not been sealed yet) through a pipe 13 connected to a source of vacuum 15 via a three-way valve 16 and then an inert gas is introduced into the package through the same pipe 13 now connected to a source of gas 15'. After the inert gas has been introduced into the package, this latter is sealed.

It should be noted firstly that the air sucking step of Joulin cannot be compared with the above mentioned step 1 performed by the claimed plant and must also be quite "soft" because a complete air suction from the tubular sheath of plastic film 4 would cause the package of Joulin to "impode", with the film tightly adhering to the product and the product itself running the risk of being irreparably deformed. This problem cannot arise in the plant according to the present invention because the product is submitted to vacuum before entering the packaging machine 12 when it is not wrapped by the film yet. In view of the above, the treatment to which the product is submitted in Joulin is completely different from that of the claimed invention because both the suction of air and introduction of inert gas take place when the product is inside the packaging machine, while in the claimed plant, the air suction (step 1) is performed outside of the packaging machine 12 and only the introduction of inert gas (step 3) takes place inside the packing machine 12.

In addition, there are significant difference of the structure of the plant as claimed and those of the prior art. As explained above, in the plant according to the present invention, two processing stations can be identified. Within the first station, the product to be packed is submitted to vacuum before packaging (and, possibly, also subject to a first exposure to modified air (Claim 17)). Within the second station, the product is packed with the tubular film containing modified atmosphere. In Joulin, only one processing station is presented, where the product is packed with the tubular film, air is sucked therefrom, inert gas is introduced, and the package is then sealed.

Therefore, it is apparent that Joulin does not contain means before the entrance of the packing machine, where the products are temporarily submitted to vacuum before being packed in modified atmosphere inside the packing machine.

Therefore, the newly presented claim is not anticipated by Joulin and the rejection under 35 U.S.C. § 102 (b) has been overcome. Accordingly, withdrawal of the rejection under 35 U.S.C. § 102 (b) is respectfully requested.

REJECTIONS UNDER 35 U.S.C. §103:

Claims 2 – 16 have been rejected under 35 U.S.C. §103 as allegedly being unpatentable over Joulin in view of Kawaguchi et al. (US 4,640,081), hereinafter Kawaguchi.

Applicant traverses the rejection and respectfully submits that the embodiments of present-claimed invention are not obvious over the cited prior art references. It is respectfully submitted that there are significant differences between the embodiments of the present invention and the disclosures in Joulin as indicated above. In addition, Applicant respectfully submits that Kawaguchi does not disclose or suggest the present invention because it relates to a vacuum packaging apparatus, i.e. a packing technique that is completely different from and alternative to packing in modified atmosphere (see page 1, lines 9 – 15 of the specification of the present application). It is respectfully submitted that there is no motivation to combine Joulin with Kawaguchi. Even if they are combined, they will not render the present claimed invention obvious and such combination will not be operable as defined in the present invention, because, as indicated during the interview, if the means before the entrance of the machine is identified as the wrapping structure in Joulin, the modification of such wrapping structure in Joulin to the box-like vacuum cover (15, 115, 215) in Kawaguchi will render the equipment in Joulin inoperable. For example, the box-like vacuum cover will be wrapped into the packages. In addition, the vacuuming box is located after the packaging machine encloses the bags at one end, not before the entrance of the machine as required in the claimed invention (see Figs. 6, 12; col. 1, lines 67 – 68; col. 2, liens 39 – 40). Thus, one of ordinary skill in the art would not discern the present invention as claimed at the time of its invention.

Furthermore, as pointed during the interview, the inventors of the present invention surprisingly found that it is not necessary for the product to be held in vacuum or in modified atmosphere until the packing is completed. It has been found in fact that the “emptying” of the air inside the product and its replacement with modified

atmosphere is maintain for some time even bringing the product into contact with the outside atmosphere at normal pressure (see page 5, liens 18 – 26 of the specification). The surprising findings that reflected in the structure of the present invention are not disclosed or suggested by the prior art, including Joulin and Kawaguchi.

Therefore, the rejection under 35 U.S.C. §103 has been overcome. Accordingly, withdrawal of the rejections under 35 U.S.C. §103 is respectfully requested.

Having overcome all outstanding grounds of rejection, the application is now in condition for allowance, and prompt action toward that end is respectfully solicited.

Respectfully submitted,

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